

Comptroller General
of the United States
Washington, D.C. 20548

Calhoun
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Decision

Matter of: Marine Electric Systems

File: B-253630

Date: September 15, 1993

Gary V. Mandell and Harry Epstein for the protester.
Ronald M. Pettit, Esq., Defense Logistics Agency, for the agency.
Tania L. Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly rejected firm's alternate part in acquisition limited to approved sources is denied where firm fails to provide adequate technical data package for agency to determine that alternate part is interchangeable with original equipment manufacturer's part.

DECISION

Marine Electric Systems protests the rejection of its alternate offer under request for proposals (RFP) No. DLA750-92-R-0250, issued by the Defense Logistics Agency, Defense Construction Supply Center (DCSC) for conductivity cells. Marine argues that the agency improperly rejected its alternate offer for failing to provide an adequate technical data package.

We deny the protest.

The RFP was issued on February 21, 1992, on a sole-source basis pursuant to the Competition in Contracting Act of 1984, 10 U.S.C. § 2304(c)(1) (1988), and described the requested parts by their original equipment manufacturer (OEM) part numbers; the OEM is Limco Manufacturing Corporation. The solicitation also contained DLA's "products offered" clause, which permits firms to offer alternate products not manufactured by the OEM. Firms offering alternate products are required by the clause to furnish a technical data package which establishes that the offered items are physically, mechanically, electrically and functionally interchangeable with the products identified in the solicitation. The products offered clause also advises offerors that the government may not have sufficient technical data on hand to determine the acceptability of an alternate product, and requests that a firm offering an

alternate product also furnish drawings and other data covering the OEM product, if available.

The agency received five proposals by the RFP's extended April 20 closing date, with Marine offering the lowest price. Four firms offered Limco parts and Marine offered alternate parts. DCSC's Technical Directorate reviewed Marine's technical data package, comprised of an assembly drawing. On July 20, the agency notified Marine that its technical data package was unacceptable and requested additional data. In response, Marine submitted its drawing No. 402249 for evaluation. On November 25, the agency notified Marine that this drawing was also determined to be inadequate for technical evaluation because it failed to specify any of the internal components or performance criteria. On January 27, 1993, Marine submitted revision No. 1 to drawing No. 402249, along with a parts list. On April 19, the agency again determined Marine's alternate offer to be technically unacceptable. The contract was awarded to Limco, the lowest technically acceptable offeror, on May 7. Marine protested to the agency on May 14, and to our Office on May 28.

Marine argues that the agency improperly found its technical data package insufficient, as it asserts that it provided a complete set of drawings and all quantitative information available. Marine states that it could not supply the additional required information because the agency did not provide it with data concerning the meter scales used for the parts.

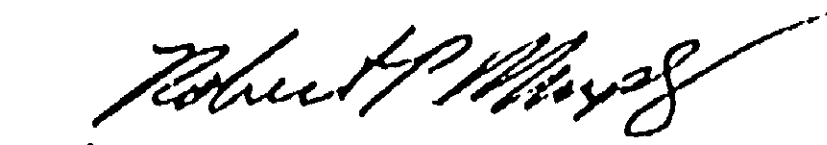
When a contracting agency restricts a contract award to an approved source, it must give nonapproved sources a reasonable opportunity to qualify. 10 U.S.C. § 2319 (1988); Vac-Hyd Corp., 64 Comp. Gen. 658 (1985); 85-2 CPD ¶ 2. Service & Sales, Inc., B-247673, June 29, 1992, 92-1 CPD ¶ 545. However, the obligation to demonstrate the acceptability of an alternate product is on the offeror. Sterling Mach. Co., Inc., B-246467, Mar. 2, 1992, 92-1 CPD ¶ 253. The procuring agency is responsible for evaluating the data supplied by an offeror and ascertaining if it provides sufficient information to determine the acceptability of a product. We will not disturb an agency's technical determination in this regard unless it is unreasonable. Service & Sales, Inc., supra; East West Research, Inc., B-244437, Aug. 27, 1991, 91-2 CPD ¶ 207. Even where information may be difficult to obtain due to its proprietary nature, an agency may properly determine that an alternate product offer does not establish the acceptability of the alternate without that information,

so long as it is reasonably necessary for a thorough evaluation. Camar Corp., B-249250, Nov. 2, 1992, 92-2 CPD ¶ 300.

We find that DLA acted reasonably in rejecting Marine's alternate offer. Marine's technical data package consisted of an outline drawing and a parts list. The drawing did not depict the fittings, internal components, or an adequate wiring diagram. As a result, DCSC could not determine whether Marine's alternate part was exactly the same as the approved item. Marine does not dispute the agency's determination that its technical data package was inadequate. Rather, the protester argues that it could have corrected the deficiencies in its technical data package had it had access to information concerning the intended range of read-out of the meter and the cell constant required. Marine also questions how the agency could find its technical data package to be inadequate for failure to include performance criteria when the record indicates that the OEM drawing in the agency's possession also failed to include performance criteria.

As discussed above, the solicitation specifically cautioned offerors that the government might not have sufficient technical data on hand to determine the acceptability of an alternate part, and requested that a firm offering an alternate product also furnish drawings and other data covering the OEM product, if available. Here, the agency states that it does not possess data on the meter scales used for the approved parts; the only technical data in the agency's possession is the OEM's line drawing, which does not include performance criteria. Since offerors bear the obligation of affirmatively demonstrating the acceptability of an alternate product, the burden was on Marine to provide sufficient technical data with its offer to show that its parts were interchangeable with the OEM parts. As Marine concededly did not do so here, the agency reasonably rejected its alternate offer.

The protest is denied.


for James F. Hinchman
General Counsel